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EXAMINER

QUAN, ELIZABETH S

ART UNIT PAPER NUMBER

1743

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/849,731

Applicant(s)

ITAYA ET AL.

Examiner

Elizabeth Quan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 2, 9, 13 and 15 is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-17, drawn to a diagnostic pipette assembly, classified in class 422, subclass 100.
 - II. Claims 18-20, drawn to a method of using a diagnostic pipette, classified in class 436, subclass 180.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus since the process does not recite the particulars of the apparatus, such as the plunger, structure for normally urging the plunger, structure for closing and opening the first and seconds of the tip housing, at least one window, and the detailed structure of the pipette tip assembly and main pipette housing.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

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5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Douglas A. Chaikin, Esq. on 9/4/2003 a provisional election was made with traverse to prosecute the invention of I, claims 1-17. Although Applicant elected claims 1-12, Examiner has rejoined claims 13-17 with claims 1-12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

8. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the one-way valve and windows (both series and plurality of windows) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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9. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "10" has been used to designate both "the invention" and pipette and reference character "14" has been used to designate both main housing and pipette tip. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

10. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "26" has been used to designate both the proximal end of the pipette and some part of the sample tube, as shown in FIG. 8. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

11. Claims 2, 9, 13, and 15 are objected to because of the following informalities: The term "urgable" recited in claim 2 cannot be found in the Merriam-Webster's Dictionary. In claim 9, "compatible" should be "compatibly." There appears to be grammatical errors in line 15 of claim 13. In claim 15, line 21, "are" should be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

12. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

13. Claims 13 and 14 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the first chamber with a first open end and second open

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end and the second chamber with a first open end and a second that may or may not be opened depending on whether the plunger is at the first or second positions, does not reasonably provide enablement for a structure within the tip housing interior for “closing and opening the first and second ends of the tip housing” as recited in lines 12 and 13 in claim 13 and the plunger body being of suitable size and shape to perform the “closing and opening of the respective ends in the pipette tip and main pipette housing” as recited in lines 7-9 of claim 14. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make/use the invention commensurate in scope with these claims. The present invention provides only structure that closes the distal end of the pipette tip assembly but does not provide structure for the other ends of the pipette tip assembly or main pipette housing. Page 13 of the specification only indicates that the distal end may be opened and closed and explicitly mentions that all other ends of the pipette tip assembly and main pipette housing remain opened no matter what the position is.

14. Claim 14 rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the spring engaging the first post, does not reasonably provide enablement for the spring engaging the second post. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make/use the invention commensurate in scope with these claims. The specification does not enable the invention with the spring engaging the second post, and the language of the claim allows for engagement of either one of the posts.

15. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

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16. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

17. Referring to claims 1-18 in general, it appears that the plunger and valve are the same elements in which the plunger acts as a valve yet it appears that the claims are reciting them as individual elements.

18. Referring to claims 1-3, 5, 14, and 15, it is confusing with the term “normally urging”, “normally urges”, or “normally in a first position.” The term “normally” seems to refer to perpendicularity.

19. Referring to claim 1, does the pipette tip assembly or main pipette housing have the second chamber. The wording is confusing.

20. Claim 1 recites the limitation "the pipette tip" in several places. There is insufficient antecedent basis for this limitation in the claim. In this particular instance, it would be confusing to have a pipette tip assembly as well as pipette tip since the pipette tip assembly also has a pipette tip. Claims 2, 4, 5, 7, 8, 9, 11, 12, and 13 also have “the pipette tip.”

21. Referring to claim 2, this is confusing. There is a structure that moves the plunger that includes a one-way valve. The spring includes a one-way valve? The one-way valve is actually formed by the enlarged body of the plunger.

22. Referring to claim 7, the last two lines of the claim is confusing.

23. Referring to claim 13, do “each of the ends being open” refer to the interior surface or exterior surface? It would be less confusing if the “pipette tip housing” would be replaced by “the housing of the pipette tip assembly.”

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24. Claim 13 recites the limitation "pipette tip housing ends" in lines 10 and 17. There is insufficient antecedent basis for this limitation in the claim. Only one end of the pipette tip assembly has claimed unless the "second open end" claimed in the same line does not refer to the main pipette housing, which would also be rendered indefinite.

25. Claim 13 recites the limitation "tip body" in line 11. There is insufficient antecedent basis for this limitation in the claim.

26. Referring to claim 13, line 12, the recitation of "pipette tip assembly including structure within the tip housing" seems to infer that they are different elements but yet they have been used synonymously previously in the claim.

27. Claim 13 recites the limitation "tip housing" in several lines. There is insufficient antecedent basis for this limitation in the claim.

28. Claim 13 recites the limitation "pipette tip interior" in the second to the last line. There is insufficient antecedent basis for this limitation in the claim.

29. Referring to claim 14, there is confusion in the last three lines.

30. Referring to claim 15, it is unclear how automatically aspirating sample into the pipette housing, plunger assembly, and so forth defines a one-way valve.

31. Claim 16 and 17 recite the limitation "exterior housing surface". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

32. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

33. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 832,164 to Rutenber.

Referring to claims 1-18, Rutenber discloses a diagnostic pipette assembly including aspiration structure for automation (see FIGS. 1-3). A main pipette housing (A,M) has a hollow interior (M) defining a first chamber and open proximal end and open distal end communicating through the hollow interior (see FIGS. 1-3). It is noted that the ends of the first chamber are open, as liquid enters through the open distal end and air on entry of liquid escapes through opening (S) in extension-tube (Q) proximate to the open proximal end (see FIGS. 1-3). It is also noted that extension-tube (Q) may be interpreted as part of the main pipette housing (A,M) since it is attached to the main pipette housing (A,M) and facilitates venting of air through opening (S) (see FIGS. 1-3). It is also noted that (B) may be interpreted as part of the main pipette housing (A,M) since it is attached to the main pipette housing (A,M) and forms a passage for air (see FIGS. 1-3; PAGE 1, line 47). The main pipette housing (A,M) has an exterior surface (A) having at least one window (P) for viewing diagnostic results (see PAGE 1, lines 92-98). The plurality of windows (P) are on diametrically opposed sides and may be considered a "series of windows" as there is more than one window and they are spaced one after the other.

A pipette tip assembly (C,H) connects with the main pipette housing (A,M) at the open distal end of the main pipette housing (A,M) (see FIGS. 1-3). The distal end of the main pipette housing (A,M) and proximal end of the pipette tip assembly (C,H) have matching tapered surfaces, such that a fluid tight force fit seal is achieved between the main pipette housing (A,M) and pipette tip assembly (C,H) (see FIG. 3). The pipette tip assembly (C,H) has housing with a

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hollow interior defining a second chamber and an open proximal end proximate to the main pipette housing (A,M) at the open distal end of the main pipette housing (A,M) and an open distal end (see FIGS. 1-3). The ends communicate through the second chamber (see FIGS. 1-3). The interior of the pipette tip assembly (C,H) is in communication with the interior of the main pipette housing (A,M) since liquid enters the pipette tip assembly (C,H) into main pipette housing (A,M) (see FIGS. 1-3; PAGE 1, lines 80-86).

The pipette tip assembly (C,H) has a “structure” including plunger, valve, and spring (K) within the second chamber for opening and closing the distal end of the pipette tip assembly (see FIGS. 1-3; PAGE 1, lines 111 and 112; PAGE 2, lines 1-27). The plunger, valve, and spring (K) have a first position wherein the proximal end of the pipette tip assembly (C,H) is opened and the distal end of the pipette tip assembly (C,H) is closed (see FIGS. 1-3; PAGE 1, lines 111 and 112; PAGE 2, lines 1-27). The plunger, valve, and spring (K) are capable of responding to pressure at the distal end of the pipette tip assembly (C,H) by moving to a second position wherein the proximal end of the pipette tip assembly (C,H) remains open and the distal end of the pipette tip assembly (C,H) is open, such that fluid flows from the distal end of the pipette tip assembly (C,H) through the second chamber and into the main pipette housing (A,M) (see FIGS. 1-3). The spring (K) of the “structure” is mostly responsible for urging the plunger to the first and second positions although the interactions among the plunger, valve, and spring (K) of the “structure” must not be ignored in its contribution to urging the plunger (E) (see FIGS. 1-3). For instance, when the plunger contacts a surface of a container with liquid, the weight of the gauge causes valve to open and plunger to move upwardly against the action of the spring (K) and permitting liquid to enter the main pipette housing (A,M) into the main pipette housing (A,M) (see FIGS. 1-

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3; PAGE 1, lines 111 and 112; PAGE 2, lines 1-27). The “structure” includes a one-way valve, which is normally closed to prevent fluid communication among the first and second chambers, but can open to allow the fluid communication (see FIGS. 1-3). It appears valve is a one-way valve, as liquid flows from the distal end of the pipette tip assembly (C,H) and into main pipette housing (A,M) upon contact with a surface of the container holding liquid but does not flow out of the distal end of the pipette tip assembly (C,H) even when the diagnostic pipette assembly is withdrawn from the container as the spring (K) acts to close valve as soon as the diagnostic pipette assembly is withdrawn to prevent the contents of the main pipette housing (A,M) from leaking out (see PAGE 1, lines 111 and 112; PAGE 2, lines 1-27).

The plunger has a first post (I) and second post (F) and an enlarged body in between the post, which is sized and shaped to close off the distal end of the pipette tip assembly (C,H) (see FIG. 3). The second post, which can be depressed and compressed, extends beyond the distal end of the pipette tip assembly (C,H) (see FIG. 3). Comparing to the drawings of the immediate invention, it appears that the spring is mounted on the first post (see FIG. 3). Since the spring (K) surrounds the first post and holds the valve against its seat and valve contacts the spring (K), it appears that the first post may somehow be attached to the spring or the spring may be mounted on the first post (see FIG. 3; PAGE 1, lines 60-80). The first post is adjacent to the connection between the first and second chambers, and it appears that the valve and spring (K) are connected to the first post (see FIG. 3). The distal end of the first chamber is fit into the proximal end of the second chamber (C,H) for a fluid tight seal (see FIG. 2). The enlarged body has a tapered abutment surface contacting and fitting the tapered abutment surface at the distal end of the second chamber (see FIG. 3).

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Therefore, Rutenber includes all the limitations in claims 1-18.

34. Claims 1-5, 7, 8, 11, 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,621,857 to Seraphin.

Referring to claims 1-5, 7, 8, 11, 13-15, Seraphin discloses a diagnostic pipette assembly including aspiration structure for automation (see FIGS. 1-3). A main pipette housing (a,p) has a hollow interior defining a first chamber and open proximal end and open distal end communicating through the hollow interior (see FIGS. 1-3). It is noted that the ends of the first chamber are open, as water enters through ports (e) via valve (g) into the distal end of the hollow interior of the main pipette housing (a,p), gas enters through ports (m) into the proximal end of the hollow interior of the main pipette housing (a,p), and air on entry of liquid escapes through vents (v) or at the end of the handle if the end is left open (see FIGS. 1-3; PAGE 1, lines 78-85; PAGE 2, lines 36-50). It is also noted that handle (o) may be interpreted as part of the main pipette housing (a,p) since it is attached to the main pipette housing (a,p) and facilitates venting of air through vents (v) or at the end of the handle if the end is left open (see FIGS. 1-3; PAGE 1, lines 78-85). It is also noted that (l) may be interpreted as part of the main pipette housing (a,p) since it is attached to the main pipette housing (a,p) and facilitates the entry of gas through ports (m) (see FIGS. 1-3; PAGE 2, lines 45-50). The main pipette housing (a,p) has an exterior surface having at least one window (b) for viewing diagnostic results (see PAGE 2, lines 63-70).

A pipette tip assembly (d) connects with the main pipette housing (a,p) at the open distal end of the main pipette housing (a,p) (see FIGS. 1-3). The pipette tip assembly (d) has housing with a hollow interior defining a second chamber and an open proximal end proximate to the main pipette housing (a,p) at the open distal end of the main pipette housing (a,p) and an open

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distal end (see FIGS. 1-3). The ends communicate through the second chamber (see FIGS. 1-3). The interior of the pipette tip assembly (d) is in communication with the interior of the main pipette housing (a,p) since water enters the pipette tip assembly (d) through (e) and into main pipette housing (a,p) (see FIGS. 1-3; PAGE 2, lines 36-44).

The pipette tip assembly (d) has a "structure" including plunger (h), valve (g), and spring (k) within the second chamber for opening and closing the distal end of the pipette tip assembly (see FIGS. 1-3; PAGE 1, lines 53-66; PAGE 2, lines 33-44). The plunger (h), valve (g), and spring (k) have a first position wherein the proximal end of the pipette tip assembly (d) is opened and the distal end of the pipette tip assembly (d) is closed (see FIGS. 1-3). The plunger (h), valve (g), and spring (k) are capable of responding to pressure at the distal end of the pipette tip assembly (d) by moving to a second position wherein the proximal end of the pipette tip assembly (d) remains open and the distal end of the pipette tip assembly (d) is open, such that fluid flows from the distal end of the pipette tip assembly (d) through the second chamber and into the main pipette housing (a,p) (see FIGS. 1-3). The spring (k) of the "structure" is mostly responsible for urging the plunger (h) to the first and second positions although the interactions among the plunger (h), valve (g) and spring (k) of the "structure" must not be ignored in its contribution to urging the plunger (h) (see FIGS. 1-3). For instance, when the plunger (h) contacts a surface of a container with liquid, the weight of the gauge causes valve (g) to open and plunger (h) to move upwardly against the action of the spring (k) and permitting the distal end of the pipette tip assembly (d) to rest on the contact surface of the container and water to enter the main pipette housing (a,p) through ports (e) via valve (g) into the main pipette housing (a,p) (see FIGS. 1-3; PAGE 1, lines 33-44). The "structure" includes a one-way valve (g), which is

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normally closed to prevent fluid communication among the first and second chambers, but can open to allow the fluid communication (see FIGS. 1-3; PAGE 2, lines 33-70). It appears valve (g) is a one-way valve, as water flows from the distal end of the pipette tip assembly (d) and into main pipette housing (a,p) upon contact with a surface of the container holding liquid but does not flow out of the distal end of the pipette tip assembly (d) even when the diagnostic pipette assembly is withdrawn from the container as the spring (k) acts to close valve (g) as soon as the diagnostic pipette assembly is withdrawn to prevent the contents of the main pipette housing (a,p) from leaking out (see PAGE 2, lines 33-63).

The plunger (h) has a first post and second post and an enlarged body, which is sized and shaped to close off the distal end of the pipette tip assembly (d) (see FIG. 2). Alternatively, it may be interpreted that plunger (h) has a first post and second post and an enlarged body in between the post, which is sized and shaped to close off the distal end of the pipette tip assembly (d), since the body in between the posts is enlarged relative to the first or upper post (see FIG. 2). In this alternative, the second post, which can be depressed and compressed, extends beyond the distal end of the pipette tip assembly (d) (see FIG. 2). Comparing to the drawings of the immediate invention, it appears that the spring is mounted on the first post (see FIG. 2). Since the plunger (h) moves against the spring (k), it appears that the first post may somehow be attached to the spring or the spring may be mounted on the first post (see FIG. 2; PAGE 1, lines 58-66). The first post is adjacent to the connection between the first and second chambers, and it appears that the valve (g) and spring (k) are connected to the first post (see FIG. 2). The distal end of the first chamber is fit into the proximal end of the second chamber for a fluid tight seal (see FIG. 2).

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Therefore, Seraphin includes all the limitations in claims 1-5, 7, 8, 11, and 13-15.

Claim Rejections - 35 USC § 103

35. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

36. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

37. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

38. Claims 5, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,621,857 to Seraphin or U.S. Patent No. 832,164 to Rutenber.

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Referring to claims 5, 14, in the event one would argue that the spring is not engaged with or mounted on the first post, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Seraphin or Rutenber to have the spring engaged with or mounted on the first post such that the spring has more control over the movement of the first post.

Double Patenting

39. Applicant is advised that should claim 6 be found allowable, claim 10 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Quan whose telephone number is (703) 305-1947. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (703) 308-4037. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Elizabeth Quan
Examiner
Art Unit 1743

eq


Jill Warden
Supervisory Patent Examiner
Technology Center 1700